THE TANK PANCHAYET ACT, 1911.

Arrangement of Sections

PREAMBLE.

1. (1) Short title.
   (2) Local extent.
   (3) Commencement.
2. Definitions.
3. Constitution of Tank Panchayets.
4. Qualifications for election to Panchayet.
5. Disqualifications for election to Panchayet.
6. Number of elected members of a Panchayet.
7. (*a*) Notification of the constitution of a Panchayet.
   (*b*) Term of office of elected members.
8. (*a*) Liability to removal from office.
   (*b*) Casual vacancies how to be filled up.
9. Patel to be Chairman of Panchayet.
10. The Tank Fund.
11. Consequence of Panchayet coming into existence.
12. Power of Panchayet to apportion repair and maintenance work among raiyats or to carry out work and recover cost from raiyats.
13. (1) Power to sell right of fishing, grazing, etc.
    (2) Power to grant tank bed for cultivation.
14. Power to regulate the issue of water for irrigation.
15. Power to restrict wet cultivation.
16. Tank Panchayet or a Village Panchayet may be entrusted with restoration and improvement of minor tank.
17. Recovery of moneys due to the Tank Fund.
18. Power of Government to abolish Panchayet in case of incompetency, default or abuse of powers.
19. Obligation of the raiyats under the ordinary law unaffected.
20. Protection of members of Panchayet for acts done in good faith.
21. Power of Government to make rules and the matters in regard to which rules may be framed.

MYSORE ACT No. I OF 1911.

THE TANK PANCHAYET ACT, 1911.

(AS AMENDED BY ACTS XII OF 1916, III 1919 AND III OF 1931.)

(Received the assent of His Highness the Maharaja on the 4th day of January 1911.)

WHEREAS, with a view to provide that the obligations of raiyats in regard to the maintenance of major tanks and the restoration, repair and maintenance of minor tanks shall be satisfactorily carried out, it is expedient to constitute Panchayets to have control over the tanks and to administer the funds that may be assigned for their restoration, repair and maintenance; His Highness the Maharaja is pleased to enact as follows:— Preamble.

1. (1) This Act may be called the "Tank Panchayet Act, 1911." Short title.

(2) It extends to the [1][whole of the State of Mysore except Bellary District;] and Local extent.

(3) It shall come into force on the sixth day of February 1911. Commencement.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) "Tank" means an irrigation tank and shall include an anikat, a voddu, a talparige, and a channel whether used as a feeder, irrigation or distribution channel and whether drawn from a tank, anikat, river, or water course;

(2) "A major tank" means a tank the annual assessment on whose irrigable area is [2][more than Rs. 300 and includes] such other tanks as the Government may for any reason notify as major tanks;

All other tanks are "Minor tanks";

(3) "Construction" means the creation of a new tank;

(4) "Restoration" means restoring to an efficient condition a tank which from neglect, accident or

1. See the Mysore Adaptation of Laws Order, 1953.
2. Substituted by Act XII of 1916.

other cause, has fallen into disuse or become impaired or less efficient than formerly ;

(5) "Improvement" means increasing the capacity of a tank so as to provide additional water for irrigation or otherwise rendering it more useful for purposes of irrigation ;

(6) " Maintenance " means works of petty repair required to keep or maintain a tank at the standard of safety that may be fixed for it after its construction, restoration or improvement, and includes the following :—

(*i*) The maintenance of the bund to the standard level and with the slopes specified, the specification of the level and slope being in accordance with the existing state of things and being approved both by the Executive Engineer and the Deputy Commissioner of the District ;

(*ii*) The filling up of gullies or other inequalities caused by rain, the treading of cattle or any other cause upon the bunds of tanks and channels ;

(*iii*) The checking of the growth on bunds of prickly-pear, and any similar rank and pernicious weed ;

(*iv*) The clearing of any underwood from the bunds of tanks wherever it may be injurious ;

(*v*) The clearing and repair of the earthwork of petty and branch channels, and the clearing away of the accumulations in sluices and in all channels issuing from tanks, which obstruct the flow of water to the fields ;

(*vi*) The keeping in order the supply channels of tanks ;

(*vii*) The watching of the bunds of all tanks during rainy weather, turfing the parts acted on by the waves, helping in opening and closing the sluice, and generally the performance of minor duties of this nature in order to prevent breaches and other accidents.

(7) " Village " includes a group of villages or any specified area for which a Tank Panchayet may be constituted ;

(8) The expression " customary obligations " means obligations enforceable under the Notification of the Chief Commissioner of Mysore, No. 65, dated the 2nd October 1873, as amended by Government

Notification No. 5262—Agri. 626-03-7, dated the 15th December 1904;

(9) "Raiyats" shall mean the individuals on whom such customary obligations devolve;

(10) "Patel" and "Shanbhog" mean the persons officiating as patel and shanbhog, respectively, of the village, and where there are more than one such patel or shanbhog, such one of the patels and such one of the shanbhogs, respectively, as may be selected by the Deputy Commissioner for the purposes of this Act.

Constitution of Tank Panchayets.

3. For any village for which the Government may consider it expedient to do so, and where a majority consisting of not less than two-thirds of the raiyats and holding in the aggregate not less than half the occupied area of wet lands under the tank so desire, the Government may constitute a panchayet composed of the patel and the shanbhog, and three or more members elected by the raiyats as hereinafter prescribed.

Qualifications for election to Panchayet.

4. Subject to the disqualifications mentioned in Section 5,

(1) every raiyat who—

(*a*) pays an annual assessment of not less than Rs. 20 on wet or garden lands in the village, or

(*b*) pays an annual assessment of not less than Rs. 10 on dry lands in the village, or

(*c*) pays in the village an annual mohatarfa tax of not less than Rs. 5, or

(*d*) pays in the aggregate an amount not less than Rs. 25;

(2) every person who is in possession of an inam, of wet, garden or dry lands in the village, the survey valuation of which is not less than the minimum prescribed in respect of these lands in clauses (*a*) and (*b*), or who is in possession of inam lands in the village the aggregate survey valuation of which added to any mohatarfa tax which he might pay in the village, amounts to not less than Rs. 25, shall be qualified for election to the Panchayet:

Provided that the Government may, by notification published in the official Gazette, reduce, for any local area, the minimum amounts of assessment or mohatarfa tax prescribed above.

Disqualifications for election to Panchayet.

5. No person may be elected as a member of a panchayet,

(*a*) who has been convicted by a Criminal Court of an offence which, in the opinion of the Deputy Commissioner disqualifies him for holding the office, or

(*b*) who is, in the opinion of the Deputy Commissioner, not physically and mentally capable of discharging the duties of his office, or

(*c*) who is less than 21 years of age, or

(*d*) who is not of the male sex:

Provided that an appeal shall lie to the Government against an order passed by the Deputy Commissioner under clauses (*a*) and (*b*).

Number of elected members of a Panchayet.

6. The number of elected members of a Tank Panchayet shall be fixed by the Deputy Commissioner; and of the number so fixed such number, [1][not exceeding one-fourth] as may be decided by the Deputy Commissioner, shall be elected by the raiyats holding dry lands or paying mohatarfa but not holding wet or garden lands, from among themselves; and the rest shall be elected by the raiyats holding wet or garden lands with or without dry lands, from among themselves.

Notification of the constitution of a Panchayet.

7. (*a*) The constitution of a Tank Panchayet and the names of its members shall be notified in the official Gazette.

Term of office of elected members.

(*b*) The elected members of a Tank Panchayet shall hold office for a term of three years.

Liability to removal from office.

8. (*a*) The Deputy Commissioner, if he thinks fit, may, on the recommendation of the Tank Panchayet, and subject to the sanction of Government, remove any member of the Panchayet, if such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct, or has become incapable of performing his duties.

Casual vacancies how to be filled up.

(*b*) In the event of the death, resignation, disqualification, disability or removal of a member of a Tank Panchayet previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may

1. Substituted by Act III of 1919.

be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred.

Patel to be Chairman of Panchayet.

9. The Patel shall be the Chairman of the Tank Panchayet and shall conduct all correspondence on behalf of the Panchayet.

The Tank Fund.

10. (1) The Panchayet shall have control over a fund to be called the Tank Fund made up of the following items :—

(*a*) the amounts collected from raiyats under section 12 ;

(*b*) the rent or value of the share of produce or the sale proceeds received under section 13 ;

(*c*) such grant out of the Irrigation Cess Fund, as the Government may, from time to time, make to the fund ;

(*d*) any other grant which the Government may make to the fund ;

(*e*) any advance which the Government may make to the Panchayet under section 16 for the execution of the masonry and stone work ; and

(*f*) any loan which the Government may make to the Panchayet for carrying out the purposes of this Act.

(2) The fund shall be deposited in the Government Savings Bank or with any Agricultural Bank or Co-operative Society approved by the Deputy Commissioner, and shall be available to the Panchayet for the maintenance and upkeep of the major and minor tanks ; for special repairs of the minor tanks rendered necessary by extraordinary causes and for the construction, restoration or improvement of any minor tank, which may be entrusted to the Panchayet under section 16.

(3) An account of the administration of the fund during each official year shall be submitted by the Panchayet to the general body of the raiyats at a meeting to be held within one month after the close of the official year.

Consequence of Panchayet coming into existence.

11. When a Tank Panchayet comes into existence under section 3, the enforcement of the customary obligations of the raiyats for the maintenance and upkeep

of all the tanks in the village, shall thereafter vest in the Panchayet :

Provided that the Government may exclude any tank or tanks in the village from the control of the Panchayet.

Power of Panchayet to apportion repair and maintenance work among raiyats or to carry out work and recover cost from raiyats.

12. (1) The Panchayet shall have the power to apportion the work required for the maintenance and upkeep of the tank or tanks under its control among the raiyats according to their respective obligations.

(2) If a raiyat fails to do the work allotted to him or prefers to commute his quota of labour into a money payment, the Panchayet shall itself get the work done out of the funds at its disposal, recovering from him the cost thereof as fixed by it.

(3) For determining the amount to be recovered from a raiyat under the last preceding sub-section, the Panchayet shall have the power to fix the wages of labour per diem, subject to such maximum and minimum rates as may be laid down by the Government.

Power to sell right of fishing, grazing, etc.

13. (1) The Panchayet shall have power to sell—

(*a*) the right of fishing in the tank under its control ;

(*b*) the right of grazing in the tank bed and the right of cutting and removing the grass on the tank bund ; and

(*c*) the produce of the trees in the tank and on the bund, if any.

Power to grant tank bed for cultivation.

(2) The Panchayet shall also have power to grant the bed of the tanks under its control for temporary cultivation of quick-growing crops on such terms as regards payment of rent or share of produce as may be deemed fit by it, provided that it shall be competent to the Deputy Commissioner to prohibit such cultivation in any tank or in any season.

Power to regulate the issue of water for irrigation.

14. For the purpose of irrigation from the tank under its control, a Panchayet shall have power to regulate—

(*a*) the time for the commencement of the issue of water from the tank ;

(*b*) the period during which the supply of water is to continue ; and

(*c*) the quantity of water to be let out from the tank.

Power to restrict wet cultivation.

15. (1) A Tank Panchayet, specially empowered by Government in this behalf may, in any year, having regard to the quantity of water available in any tank under its control,

(*a*) [1][determine the portion of the wet lands in the irrigable area of such tank to be cultivated with wet crops, or with dry or semi-dry crops, and regulate the supply of water for irrigation accordingly ;]

(*b*) select a compact and suitable block as near to the sluice of the tank as possible and parcel it out among the different raiyats who may be desirous of growing sugarcane on such terms as regards the rent or share of the produce to be paid to the holder or holders of the lands comprised within the block as may appear to it to be reasonable and as may be agreed to by such holder or holders.

(2) No such power as is referred to in sub-section (1) shall be conferred on a Tank Panchayet in regard to any tank under its control except with the consent of a majority of not less than two-thirds of the raiyats and holding in the aggregate not less than two-thirds of the occupied area of wet lands under such tank.

(3) If, in accordance with a decision of the Panchayet under clause (*a*) of sub-section (1), any land assessed as wet is not supplied with water [1][for raising wet crops] the holder of such land shall be entitled to remission of half the assessment of such land.

Tank Panchayet or a Village Panchayet may be entrusted with restoration and improvement of minor tank.

16. (1) [1][When the restoration of a minor tank has been sanctioned under[2] Act XV of 1923, a Tank Panchayet or a Village Panchayet empowered under Section 23 of [3] the Village Panchayet Act, 1926, may undertake the execution of the said restoration, under the rules framed by the Government in this behalf.

(2) A Tank Panchayet or a Village Panchayet empowered under section 23 of[3] the Village Panchayet Act, 1926, shall be bound to execute the work undertaken by it under sub-section (1) within the time and according to the specification and constructive details as may be prescribed in this behalf.]

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1. Substituted by Act III of 1931.
2. *Vide* Acts XI of 1949 and VII of 1952.
3. *Vide* Act IV of 1952.

Recovery of moneys due to the Tank Fund.

17. All moneys due to the Tank Fund under section 10 of this Act shall, in default of payment by the person from whom such moneys may be due, and on the application of the Panchayet, be recoverable by the Deputy Commissioner as arrears of land revenue.

Power of Government to abolish Panchayet in case of incompetency, default or abuse of powers.

18. (1) If, in the opinion of the Government, any Tank Panchayet [1][constituted under this Act or any Village Panchayet empowered under section 23 of the Village Panchayet Act, 1926][2] is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Government may, by an order published, with the reasons for making it, in the official Gazette, abolish the [3][Tank Panchayet or withdraw the powers of the Village Panchayet as the case may be.]

(2) [3][Where a Tank Panchayet is abolished or a Village Panchayet is divested of its powers as aforesaid, the Deputy Commissioner shall take charge of the connected funds, if any, and shall enforce the customary obligations of the raiyats in the same manner as if the Tank Panchayet had not been constituted or the Village Panchayet had not been so empowered and may utilise such funds for the purpose referred to in section 10 in the same manner as the Panchayet may have utilised the same.

(3) A Tank Panchayet abolished or a Village Panchayet divested of its powers under sub-section (2) may, after such time as the Government may think fit, be reconstituted or re-empowered as the case may be.]

Obligation of the raiyats under the ordinary law unaffected.

19. Nothing in this Act shall be deemed to relieve the raiyats of any of their obligations under any law, or any rule, order or custom having the force of law, in regard to the restoration, repair and maintenance of tanks.

Protection of members of Panchayet for acts done in good faith.

20. No member of the Panchayet shall be liable to be sued for any act done or ordered to be done in good faith in pursuance of the provisions of this Act.

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1. Inserted by Act III of 1931.
2. *Vide* Act IV of 1952.
3. Substituted by Act III of 1931.

Power of Government to make rules and the matters in regard to which rules may be framed.

21. (1) The Government may, for the whole or any part of [1][the State of Mysore except Bellary District] or for any Panchayet or group of Panchayets, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide for the preparation of lists of persons qualified to vote under sections 6, 15 and 16 and of persons qualified for election to the Panchayet under sections 4 and 5;

(*b*) prescribe the procedure to be adopted at meetings of voters;

(*c*) prescribe the procedure to be adopted by Panchayets at their meetings;

(*d*) prescribe the accounts and books to be kept by Panchayets and provide for the audit of such accounts;

(*e*) prescribe the accounts, returns and reports to be furnished by Panchayets;

(*f*) prescribe the procedure to be followed by Panchayets for collecting their dues.

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1. See the Mysore Adaptation of Laws Order, 1953.